

December 9, 2011

The Honorable Julius Genachowski
Chairman
Federal Communications Commission
445 12th Street, S.W., Room 8-B201
Washington, D.C., 20554

1707

Dear Chairman Genachowski,

I write to bring to your attention to serious concerns I have with the Lifeline program, which the Federal Communications Commission (FCC) oversees. I am aware that the FCC has begun to scrutinize the Lifeline program closely and will soon be issuing a rule to increase controls on the program. However, I remain troubled by the expansive potential for the program to be abused, especially since Americans contribute to the program through their monthly phone bills.

I urge you to give the Lifeline program your personal attention to ensure all possible actions are being undertaken by the FCC to prevent it from becoming a prominent source of fraud, waste and abuse. In the days ahead, I will also be exploring a range of options to increase oversight of the program, including launching a new Congressional investigation, seeking a Government Accountability Office review and pursuing expanded reviews by the FCC Inspector General. I would like to work with you on these options so that we can address the problems that Lifeline faces.

As you know, Lifeline is a program under the Universal Service Fund that has traditionally provided discounts for wireline phones to qualified, low-income customers. In 2008, Lifeline was expanded to provide prepaid wireless phones and discounts for wireless phone services. Since the expansion of Lifeline to the provision of wireless services in 2008, there has been a substantial increase in disbursements from the Universal Service Fund (USF). Startlingly, the annual level of disbursements on the program has increased from \$800 million in 2008 to approximately \$1.3 billion in 2010 and is expected to exceed \$1.5 billion in 2011. In my home state of Missouri, the disbursements have more than doubled from \$8.05 million in 2008 to \$17.1 million in 2011. I recognize that the poor economy has likely resulted in more people using the program, resulting in some of the increase in disbursements. However, these two factors may not alone account for a near doubling of the expenditures in the program in just three years.

The FCC and individual states designate private telephone carrier companies to administer and enroll individuals in Lifeline. The private carriers are responsible for verifying the eligibility of any individual seeking to participate in Lifeline. However, the current requirements to determine eligibility often do not require customer documentation for participation in Lifeline, which may result in individuals receiving phones who should not be. In particular, once users receive cell phones, there is little ability to control what is done with the phones. A user can potentially sell or trade the phone in a barter transaction, putting the Lifeline phones into the hands of those for

whom they are not intended. This leaves the intended recipient in the same scenario they were before they received a phone, thereby completely undercutting the intent of the Lifeline program. This scenario is troubling. It is among the key reasons why the Lifeline program demands scrutiny, along with intense controls, in order to prevent fraud, waste and abuse.

As you likely know, on October 28, 2010, the Government Accountability Office (GAO) issued a report on the status of the low-income phone provision programs overseen by the FCC and funded by the USF. The report stated that the FCC has limited insight on the intent of the programs, does not have proper goals and performance measures and has not taken steps to address the eligibility problems that are occurring. This report underscores the concerns I am raising with Lifeline and the state of the FCC's controls on it.

I know that the FCC issued a Notice of Proposed Rulemaking (NPRM) in February, 2011, regarding the Lifeline program in an effort to prevent abuse and improve the program's performance measures. The proposed rule would require better documentation for eligibility in the program, increased controls to ensure households receive only one phone, and the establishment of a national database to better track customers. A final order is due in the near future.

I am pleased that the FCC is moving forward with the proposed rule. However, I fear that the pending Order does not fully address the scope of fraud, waste and abuse that may be occurring in Lifeline. I request that the FCC provide the following information to me so that I can further explore the nature of the challenges facing Lifeline:

- The growth in the number of carriers participating in Lifeline since the wireless expansion;
- The amount of duplication and the number of ineligible customers the FCC has discovered in the last three years;
- The number and scope of audits that have been conducted by the FCC since the wireless expansion and details of the audit findings;
- The internal processes that the FCC has implemented to administer Lifeline and prevent fraud, waste and abuse in the program.

As I consider options to expand oversight of the Lifeline program and to determine if changes to the program are required, I look forward to working with you to ensure this program is not subject to expansive fraud, waste and abuse.

Sincerely,



Claire McCaskill
United States Senator



FEDERAL COMMUNICATIONS COMMISSION

April 17, 2012

JULIUS GENACHOWSKI
CHAIRMAN

The Honorable Claire McCaskill
United States Senate
717 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator McCaskill:

Thank you for your letter regarding the Commission's action to reform the Universal Service Fund's (USF) Lifeline program. The Commission's unanimous, comprehensive reform of Lifeline earlier this year included strong measures to eliminate waste, fraud, and abuse, while modernizing Lifeline for the broadband age. These reforms are expected to save hundreds of millions of dollars annually.

I am glad to respond to the questions you pose by providing the attached responses prepared by the Commission's Wireline Competition Bureau.

Please let me know if I can be of further assistance.

Sincerely,

A handwritten signature in black ink, appearing to be "J. Genachowski", is written over the word "Sincerely," and extends across the line below it.

Julius Genachowski

Enclosure

(1) **The growth in the number of carriers participating in Lifeline since the wireless expansion.**

In 2008, the Commission designated TracFone, a prepaid wireless reseller, as an eligible telecommunications carrier (ETC) for purposes of participation in the Lifeline program. The Commission has since designated other non-facilities-based carriers as Lifeline-only ETCs, including Virgin Mobile, Conexions, and i-Wireless. States have also granted Lifeline-only ETC designations to non-facilities-based carriers. The number of new ETCs (both facilities-based and non-facilities-based) receiving low-income support from 2008 through January 2012 is as follows:

ETC Designation Year	Number of New ETCs Receiving Low-Income Support
2008	54
2009	131
2010	103
2011	147

(2) **The amount of duplication and the number of ineligible customers the FCC has discovered in the last three years.**

a. Duplicative Lifeline Support: On February 6, 2012, the Commission issued a *Report and Order and Further Notice of Proposed Rulemaking* to comprehensively reform the Lifeline program (FCC 12-11). That *Report and Order* notes (page 170) that, beginning in June 2011, the Commission directed the Universal Service Administrative Company (USAC) to undertake a series of in-depth data validations to identify instances of duplicative Lifeline support. Through the IDV process, which has been completed in 12 states, USAC examined 3.6 million customer records and directed ETCs to de-enroll over 292,000 customers receiving duplicative Lifeline support. USAC found that this process will result in a savings to the federal USF of \$2.9 million per month, or \$35 million annually. The detailed data results of the IDVs as filed by USAC are publicly available on the Commission's electronic filing system (ECFS), dated January 10, 2012.

b. Ineligibility Data: As detailed in the Commission's February 6 *Report and Order* (pages 49-50), carriers in non-federal-default states (i.e., states that mandate Lifeline support) historically follow procedures prescribed by the state to annually verify the continued eligibility of their Lifeline subscriber base. The Commission has required carriers in federal default states (i.e., states that do not mandate Lifeline support) to annually verify a statistically valid random sample of their Lifeline subscribers. In some states, this function is performed by a state program administrator rather than the carrier. In the *Report and Order* (pages 66-74), the Commission replaces the current verification methodology with a uniform re-certification process that would require carriers in all states to annually re-certify the continued eligibility of their entire Lifeline subscriber base.

USAC compiles the annual verification results for carriers in federal default states and carriers in states that require the submission of verification results to USAC. For

2009 and 2010, the number of consumers failing to respond to the carrier or state's verification surveys was not tracked separately from the number of consumers found to be ineligible for Lifeline; rather, both are presumed to be ineligible for Lifeline. The results for 2011 separated the number of non-responders from consumers found to be ineligible. The results for the prior three years are as follows:

- i. 2009: Out of 336,079 Lifeline subscribers surveyed, 52,776, or 16 percent of Lifeline subscribers surveyed, failed to respond or were found ineligible.
- ii. 2010: Out of 61,370 Lifeline subscribers surveyed, 15,103, or 25 percent of Lifeline subscribers surveyed, failed to respond or were found ineligible.
- iii. 2011: Out of 52,865 Lifeline subscribers surveyed, 4,694, or 9 percent of Lifeline subscribers surveyed, responded that they were no longer eligible for Lifeline. Additionally, 14,219, or 27 percent of subscribers surveyed, could be deemed ineligible due to failure to respond to the carrier or state administrator's verification attempts.

The detailed data results as filed by USAC are publicly available on the Commission's electronic filing system (ECFS), in filings dated January 10, 2012 and January 24, 2012. See also Appendix D of the *Report and Order* (pages 276-277) for the data results for 2007 and 2011.

(3) The number and scope of audits that have been conducted by the FCC since the wireless expansion and details of the audit findings.

Since January 2009, the USAC Board of Directors has approved 54 low-income program audits (a total of 215 audit findings). To date, USAC has recovered a total of \$480,796 based on those audit findings. Of those 54 low-income program audits, 23 contained monetary and non-monetary findings, 8 contained only monetary findings, 17 contained only non-monetary findings, and, in 6 instances, no negative audit finding was made.

(4) The internal processes that the FCC has implemented to administer Lifeline and prevent fraud, waste and abuse in the program.

The Commission has recently implemented several processes to detect and prevent instances of waste, fraud, and abuse in the Lifeline program. First, as noted above, beginning in June 2011, the Commission directed USAC to begin performing in-depth data validations to identify instances of duplicative Lifeline support. In that month, the Commission also adopted a process for de-enrolling consumers found to be receiving duplicative Lifeline services and, to date, USAC has directed ETCs to de-enroll over 292,000 customers in 12 states, saving the Fund \$35 million annually.

Second, in the February 6 *Report and Order and Further Notice of Proposed Rulemaking*, the Commission enacted several reforms to eliminate waste, fraud, and abuse in the Lifeline program, including: adoption of a national duplicates database to detect and eliminate duplicative Lifeline and Link Up support, which should be functional as soon as possible and no later than 2013; the phase out of Toll Limitation

Support (TLS) for eligible telecommunications carriers that offer service plans that charge a fee for toll calls in addition to the per month or per billing cycle price for the Lifeline service plan; elimination of Link Up support to all ETCs on non-Tribal lands, effective April 1, 2012, and the limitation of Link Up on Tribal lands to high cost recipients deploying infrastructure; establishment of rules preventing prepaid carriers providing free Lifeline services from obtaining support for subscribers who do not personally activate the phone, and requiring de-enrollment of subscribers who do not use their Lifeline service within a 60-day period; adoption of rules regarding the marketing of Lifeline-supported services; revision of the Lifeline program audit and oversight requirements; and adoption of a three-month transition period for low-income support to be disbursed based on actual support payments rather than based on projected support amounts.